

21 C.J.S. Courts § 12

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Courts

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II. Jurisdiction of Courts

A. General Considerations

§ 12. Distinctions involving courts' jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

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"Jurisdiction" is distinguished from "judgment," "merits," and other terms as a matter of the adjudicatory power of the court and not of the rights of the parties before the court or the effect of the court's action in the matter before the court.

Jurisdiction refers to the adjudicatory power or competency of the court¹ and not to the rights of the parties as between themselves.² The jurisdiction of the court does not depend upon whether its decision is right or wrong, correct or incorrect.³ Whether a party should win in an action is an altogether different question from whether the court has the power to say who wins.⁴ Statutes that speak to the rights or obligations of the parties to a lawsuit, rather than to the courts' statutory or constitutional power to adjudicate the case, should not be treated as jurisdictional.⁵

Jurisdiction concerns the court's capacity to pronounce judgment⁶ but is to be distinguished from the judgment itself,⁷ rendered once the court's jurisdiction is invoked,⁸ and a decision on the merits.⁹

"Jurisdiction" is distinguished from procedure in that "jurisdiction" relates to the court or forum that may hear and determine a controversy and "procedure" relates to the form or manner of conducting the suit.¹⁰

"Jurisdiction" has been distinguished from "capacity" in that "capacity" deals with the ability of a party to participate in that litigation.¹¹ The "capacity" of the court in a particular case may also be viewed as its capacity to order or effect a particular result, as opposed to the court's competency or jurisdiction to determine controversies of the general class to which the case

presented belongs.¹² The same is said of the court's "power" or, more aptly, its "authority" to order or effect a certain result,¹³ noting that "jurisdiction" and "power" are neither synonymous nor interchangeable.¹⁴

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Footnotes

- 1 § 11.
- 2 N.D.—*Lang v. Basin Elec. Power Co-op.*, 274 N.W.2d 253 (N.D. 1979).
- 3 N.D.—*Winter v. Solheim*, 2015 ND 210, 868 N.W.2d 842 (N.D. 2015).

Not a matter of court's correct decision
Idaho—*State v. McIntosh*, 160 Idaho 1, 368 P.3d 621 (2016).
- 4 Kan.—*Jahnke v. Blue Cross and Blue Shield of Kansas, Inc.*, 51 Kan. App. 2d 678, 353 P.3d 455 (2015), review denied, (Jan. 25, 2016).
- 5 U.S.—*Gad v. Kansas State University*, 787 F.3d 1032, 318 Ed. Law Rep. 625 (10th Cir. 2015).
- 6 § 11.
- 7 Colo.—*Nickerson v. Network Solutions, LLC*, 2014 CO 79, 339 P.3d 526 (Colo. 2014).

Pa.—*Estate of Gentry v. Diamond Rock Hill Realty, LLC*, 2015 PA Super 40, 111 A.3d 194 (2015).
- 8 Tex.—*In re J.S.P.*, 278 S.W.3d 414 (Tex. App. San Antonio 2008).
- 9 U.S.—*General Inv. Co. v. New York Cent. R. Co.*, 271 U.S. 228, 46 S. Ct. 496, 70 L. Ed. 920 (1926).
- 10 Tex.—*Byke v. City of Corpus Christi*, 569 S.W.2d 927 (Tex. Civ. App. Corpus Christi 1978), writ refused n.r.e., (Dec. 20, 1978).
- 11 Ky.—*Abbott v. Southern Subaru Star, Inc.*, 574 S.W.2d 684 (Ky. Ct. App. 1978).
- 12 Pa.—*In re Bruno*, 627 Pa. 505, 101 A.3d 635 (2014).
- 13 Pa.—*In re Bruno*, 627 Pa. 505, 101 A.3d 635 (2014).
- 14 Pa.—*In re Larsen*, 571 Pa. 457, 812 A.2d 640 (Spec. Trib. 2002).

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